

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ADAN PEREZ, JR.,	§
	§
Petitioner,	§
VS.	§ CIVIL ACTION NO. C-11-35
RICK THALER,	§
	§
Respondent.	§

**ORDER ADOPTING MEMORANDUM AND
RECOMMENDATION TO GRANT
RESPONDENT'S MOTION FOR SUMMARY JUDGMENT**

On June 22, 2011, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending as follows:

1. that respondent's motion for summary judgment (D.E. 12) be granted because petitioner's claims are procedurally barred or, in the alternative, because they fail on the merits, and that petitioner's habeas petition (D.E. 1) be dismissed;
2. that petitioner's request for an evidentiary hearing be denied; and
3. that petitioner be denied a certificate of appealability.

On July 21, 2011, petitioner filed Objections to the Magistrate's Recommendations.

Having reviewed the findings of fact and conclusions of law therein, as well as the pleadings on file and petitioner's objections, and having made a *de novo* disposition of those portions of the Magistrate Judge's recommended disposition to which objections were raised, *see Koetting v. Thompson*, 995 F.2d 37 (5th Cir. 1993), 28 U.S.C. § 636(b)(1)(C); Fed.R.Civ.P.72(b), the Court hereby adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, it is ORDERED that respondent's motion for summary judgment is granted because petitioner's claims are procedurally barred and his habeas petition is dismissed. It is further ORDERED that petitioner's request for an evidentiary hearing is denied and petitioner is denied a certificate of appealability.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 5th day of August, 2011.



Janis Graham Jack
Senior United States District Judge